

CHAPTER 8 WAGE COLLECTION PAYMENT

[Prior to 9/24/86, Labor, Bureau of [530]]

347—35.1(91A) Definitions.

“Claim for wages” means the printed form available upon request from the division.

“Commissioner” as used herein shall mean the labor commissioner of division of labor services or a designee.

“Division” means the division of labor services of the department of employment services.

“Enforceable claim” as used herein shall mean a claim for wages which merits judicial proceedings and one which is collectible.

347—35.2(91A) Filing a claim. A claim for wages shall be made by filing a complete claim for wages form with the division located at 1000 East Grand Avenue, Des Moines, Iowa 50319. The claim for wages form is available upon request. The requests may be made by telephoning, writing, or personally visiting the division.

347—35.3(91A) Investigation.

35.3(1) Upon receipt by the division of a completed and signed claim for wages form from an aggrieved employee, the commissioner shall commence investigation of the claim for wages and the allegations therein. The commissioner’s investigation is not to be construed as a contested case as defined in Iowa Code chapter 17A.

35.3(2) The commissioner shall advise the employer in writing of the allegations contained in the claim for wages and shall request a response from the employer within 14 days’ time from the date of the letter. This period may be extended by the commissioner for good cause.

35.3(3) If the employer fails to answer the commissioner’s request for response within the 14-day period, as extended by the commissioner, the commissioner may determine the employee’s claim to be enforceable.

35.3(4) If the employer answers the commissioner’s request for response within the established time, the commissioner shall notify the aggrieved employee of the employer’s response and afford that employee an opportunity to present additional information in support of the employee’s claim for wages. The employee shall submit the requested additional information within 14 days from the date of the letter. This period may be altered by the commissioner for good cause.

35.3(5) Upon receipt of the requested additional information from the employee, the commissioner may determine additional information is required from the employer.

35.3(6) Upon receipt of all requested information, the commissioner may determine the employee’s claim for wages to be enforceable and the commissioner shall notify the employee of that determination. Due to the budgetary constraints placed upon the division and its desire to provide the largest number of employees with assistance in the pursuit of claimed wages, the commissioner may determine that a claim is unenforceable by the division if the claim is of a complex nature requiring extensive legal discovery, proceedings, and the claim is for a substantial amount of wages. The fact that a claim for wages is unenforceable for such a reason in no way precludes the employee from seeking the services of a private attorney. The employee may have the attorney’s fees reimbursed should that employee prevail in court as provided by Iowa Code section 91A.8. Should the commissioner determine the claim is unenforceable by the division, the commissioner shall so notify the employee. The fact that the commissioner has determined a claim for wages is unenforceable in no way precludes the employee from pursuing the matter, or from seeking the services of a private attorney. The employee may have the attorney’s fees reimbursed should the employee prevail in court as provided by Iowa Code section 91A.8.

35.3(7) Upon a determination that a claim for wages is enforceable, the commissioner shall notify the employer of that determination in writing and afford the employer an opportunity to tender settlement within 14 days of the writing prior to initiating judicial proceedings.

347—35.4(91A) Judicial proceedings. Upon filing a legal action, the commissioner shall be bound by the standard of conduct required by the code of professional responsibility for lawyers.

These rules are intended to implement Iowa Code chapter 91A and section 84A.2.

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